

## STATE OF TENNESSEE

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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COMMISSIONER

**TO: Mortgage Company Licensees and Registrants**  
**FROM: Mike Igney, Assistant Commissioner**  
**RE: Legislative Update/Public Chapter No. 499**  
**DATE: July 15, 2009**

This notice is to advise you that Public Chapter No. 499 of the Public Acts of 2009 was signed into law by Governor Bredeesen on June 23, 2009 in order to bring the mortgage licensing laws of the State of Tennessee into compliance with the federal *Secure and Fair Enforcement for Mortgage Lending Act of 2008* (SAFE Act). The SAFE Act requires all states to pass mortgage licensing laws and regulations that meet or exceed certain national standards. More information about the SAFE Act can be found on the Tennessee Department of Financial Institutions (TDFI) website at <http://www.tennessee.gov/tdfi/>. Key changes under Public Chapter No. 499:

**MORTGAGE LOAN ORIGINATORS**

Under Public Chapter No. 499, all individuals meeting the definition of a **mortgage loan originator (MLO)** must meet new licensing requirements that are in compliance with the SAFE Act. Generally speaking, the new legislation defines a MLO as any **individual** who for compensation or gain or in the expectation of compensation or gain: (1) takes a residential mortgage loan application, or (2) offers or negotiates terms of a residential mortgage loan [with a customer]. The term does not include an *employee* who is engaged solely as a loan processor or underwriter for the company. See Public Chapter No. 499 for more information.

**\*Each MLO that is currently registered with your company (as well as future MLOs) will transition to a license over the next twelve (12) months under the following requirements:**

- **MU4 filing with TDFI**

To apply for a MLO license, an individual must have filed or file a Form MU4 through the Nationwide Mortgage Licensing System (NMLS). Most current MLOs are already on the NMLS, and those that are not should transition by the deadline of August 1, 2009.

- **SAFE Mortgage Loan Originator Test**

All MLOs must pass the SAFE Mortgage Loan Originator Test, which is comprised of two (2) components: a National Component and a State Component. MLOs must pass each Component with a score of 75% or higher. Each component may be taken separately; however, both components must be passed by July 30, 2010 in order to retain

licensure. After July 30, 2010, no MLO license will be issued or valid unless the applicant has first passed both components of the test and met the other licensing criteria. It is anticipated that the National Component will be ready around July 31, 2009; however, the State Component will likely not be ready until early 2010.

- **Pre-Licensure and Continuing Education Requirements**

- All MLOs must complete twenty (20) hours of NMLS-approved pre-licensure education. It is anticipated that NMLS will begin approving courses for Tennessee applicants in July or August, 2009. All twenty (20) hours must be completed by July 30, 2010 in order to retain licensure. After July 30, 2010, no MLO license will be issued or valid unless the applicant has first completed the twenty (20) hours of education and met the other licensing criteria.
- Any MLO that has already satisfied the twenty (20) hours of NMLS-approved education in another state is not responsible for the above requirement.
- Continuing Education – beginning in 2011, all licensed MLOs will be required to annually complete eight (8) hours of NMLS-approved continuing education in order to renew their license.

- **Criminal Background Check**

All MLOs will be required to authorize a fingerprint background check through NMLS for purposes of a FBI national criminal history background check. This requirement applies to all MLOs, regardless of whether they are currently registered or have previously submitted fingerprints. NMLS will implement a comprehensive process which includes electronic fingerprint locations throughout the state and nation. It is anticipated that NMLS will have this fingerprint capability ready in fall of 2009, and that all current MLOs will be fingerprinted through NMLS by December 31, 2009.

- **Credit Report**

By filing a Form MU4 through the NMLS, the MLO will provide authorization to obtain a credit report through NMLS. It is anticipated that the TDFI will begin reviewing credit reports as part of its determination of financial responsibility for each MLO in 2010.

## **COMPANY SPONSORSHIP OF LICENSED MLOS**

While Public Chapter No. 499 imposes a new MLO licensing requirement, the license will be considered “inactive” until the licensed MLO has been “sponsored” by a company licensed as a mortgage lender or broker. A MLO can only be “sponsored” by one (1) company at a time, and a sponsored MLO can only work for the sponsoring company (and not for affiliates, subsidiaries, etc.). Sponsorship is a simple action through the NMLS, and will require payment of a one-time sponsorship fee of \$100.00. **Note:** sponsorship is “automatic” for each MLO that is registered with your company under existing law as of July 31, 2009 (meaning that no sponsorship fee is owed for these individuals). You may verify current MLO registrations/sponsorship in NMLS.

## **SCALED SURETY BOND FOR ALL COMPANIES**

As a condition of license renewal for 2011, every company that is licensed as a mortgage lender or broker must obtain a surety bond that provides coverage for each sponsored MLO, and which is in an amount that reflects the dollar amount of residential mortgage loans originated by the company. The TDFI will provide additional information on this subject in the near future (e.g. loan thresholds and corresponding surety bond requirements, etc.). **Note:** for any licensee currently providing a *letter of credit* (as opposed to a surety bond), the letter of credit option has been removed by Public Chapter 499 and the company will need to obtain a surety bond by December 31, 2009 to renew for 2010, and will need the scaled surety bond to renew for 2011.

## **NMLS CALL REPORT FOR COMPANIES**

Public Chapter No. 499 requires that every company that is licensed as a mortgage lender or broker must file a Mortgage Call Report through the NMLS on an annual basis, beginning sometime in 2010. The Mortgage Call Report is a statement of condition on the company and its operations including financial statements and production activity volumes reported on a per state basis. The TDFI will provide additional information on this subject in the near future

## **ATTENTION CURRENT “REGISTRANTS”**

Under Public Chapter No. 499, mortgage companies may no longer apply for a Certificate of Registration in Tennessee. This Certificate was previously available to those companies approved by a federal agency such as HUD, and relieved the company from having to provide a surety bond in Tennessee. Any company currently holding a Certificate of Registration must do the following in order to retain authority to do mortgage business in Tennessee:

- (1) Transition to the NMLS by the August 1, 2009 deadline;
- (2) File a renewal application through NMLS by December 31, 2009;
- (3) Pay the licensure renewal fee of \$500 through NMLS by December 31, 2009; and,
- (4) Provide the requisite surety bond to the TDFI by December 31, 2009 (\$90,000 for brokers and \$200,000 for lenders and servicers).

If any of these steps are not completed, the company's authority to do mortgage business in Tennessee will expire on December 31, 2009, and the company will be required to file a new application for a license in Tennessee in 2010 (resulting in higher fees and a wait time for the TDFI to review the application).

## **QUESTIONS**

Please visit the TDFI website (<http://www.tennessee.gov/tdfi>) for additional information (including Public Chapter No. 499 and the SAFE Act), and check back regularly for updated information. You may also email [askmortgage.licensing@tn.gov](mailto:askmortgage.licensing@tn.gov) or call (615) 253-6714 (to leave a message for a return call) with Tennessee-specific licensing questions. Please direct any NMLS-specific questions to the NMLS call center at (240) 386-4444, or please visit the NMLS website at [www.stateregulatoryregistry.org/nmls](http://www.stateregulatoryregistry.org/nmls).